G. R. & S. IX-5]

Previous references.

File No. 199-14

1914.15

Serial Nos. 1—4

(Courts)

Later references.

Cb 36-17 (1-6)
CB 104-22-4609 (Compl)
CB 58-25-1203 (Compl)
CB 55-25-1410 (Compl).

Cb 3-25-29
" 122-29-1, 3+4.

Reserve

Asst 24/6/26

GENERAL AND REVENUE SECRETARIAT.

CB 107-33-1143
Cs-178-34-1, 2, ---19
45 176-37 (1, 2, 5)
4 10-38 (1, 7, 8)

Cb 101-46 (1-3)

Serial Nos. 1—4

Part B for Jan. 17.

SUBJECT.

Re holding of a competitive examination for the recruitment to the grade of Munsiffs

To The Right Chief Court

4) J. 2643 of 28/1/17

Passes orders on the subject of competitive Examination for selection of Munsiffs

Archivist 30/1/17

W D 88—GPB—50,000—24-7-16

For disposal at a Meeting.

No. C. 449

4. 3. 1915.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Note by the First Member of Council in regard to the holding of a competitive Examination for the appointment of Munsiffs.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

D. M. Narasinga Rao.

3rd March 1915.

Offg. *Secretary to Government.*

Extraordinary Member of Council.

5. 3. 15.

First Member of Council.

Opinion recorded by the First Member of Council.

Second Member of Council.

4/3

GPB—1,000—28-8-14

G. R. S. 11]

1914. 15

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 199-14

FILE HEADING.

Re the holding of a Competitive Examination for the appointment of Munsiffs

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

(2

[R. S. 12]

General and Revenue Secretariat.

Confl.

File No.

CONFIDENTIAL.

Serial No.

1) The accompanying note may be considered & if generally approved, may be sent to the Ch. Court for opinion & then finally dealt with.

Dewan

26/2/15

2) The note may be circulated & brought up at a meeting of Council.

1.3.15

C.S. in Dewan's 3/3

Council Read

3) The Chief Court may be consulted Macaulay in regard to the proposals.

Dewan 10/3

4) The draft letter may be approved.

Dewan 23/3

First member 5) Approved

6) Mine from C.S. Dewan 24/3/15

NOTE—Contn. sheet.

Cs 1994

NOTE.

The appointments of Munsiffs are as im
as those of Assistant Commissioners and re
that the candidates should be selected wit
equal care. The appointments are made on
nomination of the Chief Court. It is wort
considering whether a modified system of c
tition would not be better than the present
system of mere registration of names.

When a vacancy occurs among Munsiffs
when it can be fore-seen that one will occur
an advertisement calling for applications ma
be inserted in the Gazette, and candidates
selected from among the following:-

Graduates in law who,

(1) have practised for at least 4 ½ yr
an advocate, vakil,
or employed under Governmen
in places of a salary of R
or more for a like period;

(2) are natives of Mysore by birth
domicile;

An examination for Selection of Candidates for the post of Mff will be held at such times as Govt may notify in the Gazette, at least three months before the date of its Commencement. The number of appts to be given to those who are successful will be notified, and these Candidates will be ~~given~~ appointed to the vacancies occurring after the declaration of results in order of their rank.. No fresh Competitive

(3) are aged below 30, or 35 if they have begun their practice as advocates before 30:

(4) and are respectable and of good character.

(5) and are declared ✓ as physically fit for ✓ service by a Medical Board appointed by Govt.

All the selected candidates will be subjected to an Examination in

(1) drawing up of judgments on ---- records furnished and reference books allowed;

(2) recording depositions given in Kannada and English in actual cases (accuracy of rendering and speed);

(3) evidence and pleadings;

(4) preparation and examination of Rules of Practice (Civil & Criminal) cash and other registers of Courts and ~~Rules of practice (Civil and Criminal)~~;

(5) criticism of cases actually --- decided, (or hypothetical ✓ propounded) ?

The Chief Court may make nomination of as many as are required from those who pass --- (securing a settled minimum), giving reasons when the order of rank has to be disregarded.

Government may call for papers and other information and dispose of such nominations in accordance with Civil Courts Regulation and other rules.

~~H.H.~~

H. Mayiumdarya

26/2/15

The Candidates will be arranged in order of merit according to the number of total marks obtained; provided that

Marks obtained in any one more subjects shall be altogether left out when they are below 25 Per Cent; and ~~no~~ no Candidate considered to have passed unless he obtains 50 P.C. of the total number of marks.

(P.T.O.) H. 16/2/15

AH 754

D.S.N

In G.O. No. Law 1687-89/ cls 9-46-2 dated 28th Nov. 1946, the cadre of Second Grade Munsiffs has been abolished and only one cadre on Rs 250-40/2-450, with a probationary period of one year at the start during which the salary at the rate of Rs 200/- p.m. should be drawn, has been sanctioned.

With a view to maintain high standard of efficiency the judicial service, it is considered necessary to recruit a sufficient portion of ~~the~~ the service as Munsiffs, proper and efficient men so that they may fill with credit higher appointments in the judicial service when they are promoted to such posts. In order to achieve said object the existing rules for the recruitment of Munsiffs have to be altered only in the matter of selection of candidates

initial recruitment but also in respect of their confirmation as Munsiffs after the expiry of the period of probation.

The High Court have forwarded draft revised rules with ~~for the appointment of Munsiffs and draft~~ amendments for the recruitment and confirmation of Munsiffs and they were considered at a meeting of Council held on the 20th January 1947, when the following resolution was recorded -

"Approved with the observation that under Rule 5 two separate lists will be maintained according to Communities and that in Rule 6 - 'continuous period' means total period of one year".

I solicit gracious approval to the resolution of

J. Hall
24/1/47

Dewan
23/1/47

23/1

(2)

J. R. S. 12]

General and Revenue Secretariat.

Cs File No. 199 of 1914. 15

Serial No.	
1	To the Registrar, Chief Court No J 3233 dated 26th Mar. 1915. Gives the essential features of a system of Selecting Candidates for the post of Munsiffs by means of a competitive examination and requests to be furnished with the views of the Judges of the Chief Court in the matter.

WD 1233—GPB—60,000—1-12-16—S

G. R. S. III-2)

General and Revenue Secretariat. | Cts File No. 199 of 1914. 15

Serial No.

From the Regr. Chief Court.
D.O of 7/4/1915
Ascertains if there is any objection to the Chief Court confidentially consulting the Dist. Judges on this question.

8) Put up drafting that Govt is no objection. Done 9/4

9) Subs with a draft reply, as directed. 9/4.

16) Approved 11) Done Done 9/4

Issued

WD 1233—GPB—60,000—1-12-16—S.

(5

G. R. S. III-2)

General and Revenue Secretariat.

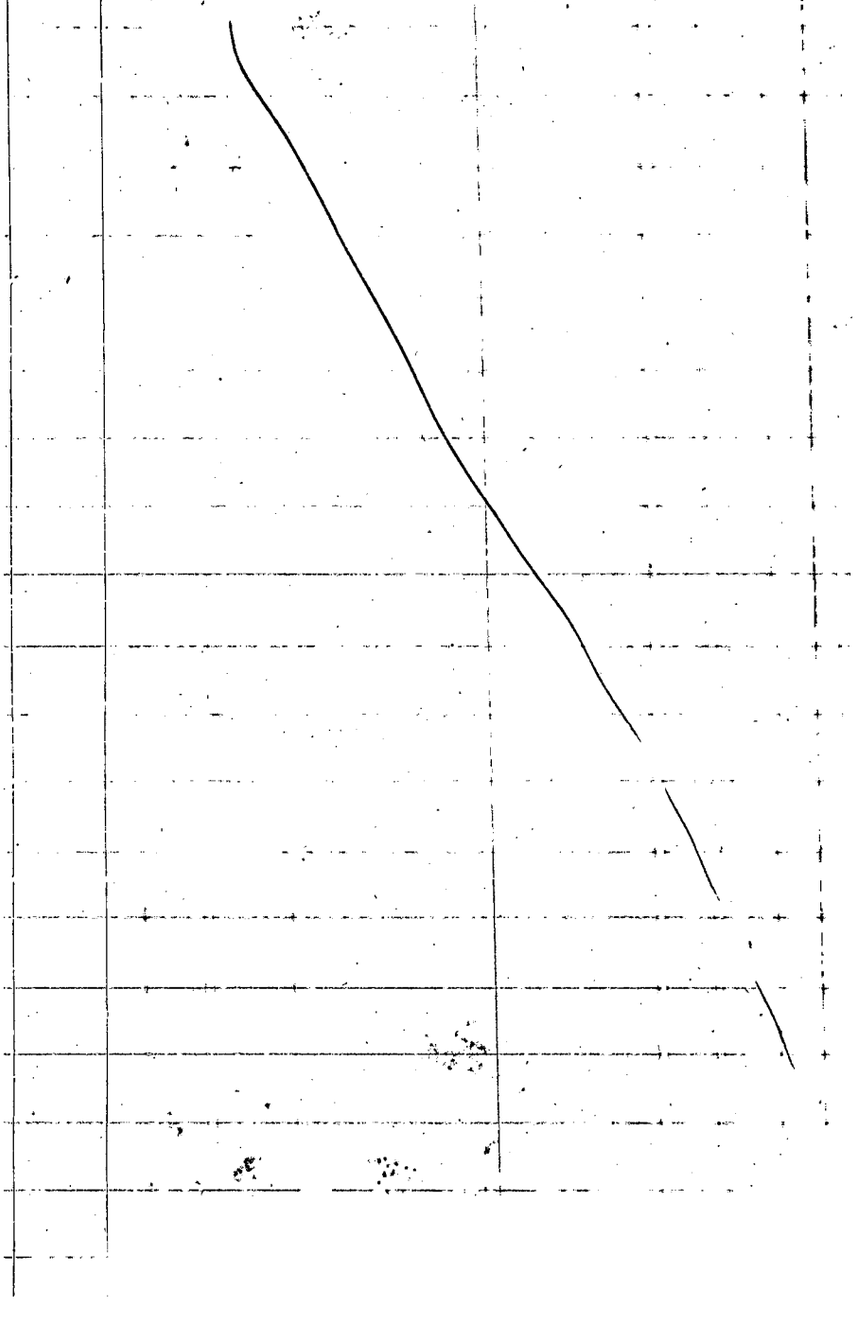
Ch File No. 199 of 1914-15.

Serial No.

To The Reg: Ch Ct

Do No 373 of 9/4/15

Informs that there is no objection to the Chief Court consulting the Dist. Judges confidentially, on the question



(6

G. R. S. 12]

General and Revenue Secretariat.

C/3 File No. 199 of 1914.15

Serial No.

Letter no 5149/349 dated 24.5.15.

2 From the Registrar, Chief Court

Furnishes the views of the Judges of the chief Court and of the District judges, in the matter.

Mseby C.S. ai dated 25/5

13) The opinion of the Chief Court as given in the last paragraph may be ~~I~~ adopted I have appended some pencil notes. Please redraft the rules.

14) The file may then be circulated & the subject again brought up before the Council.

15) The Exam^n may be held at periods determined by Govt. The number of appts may be notified. ~~If~~ The next Exam^n should be held again after the no. of adv^d appts are given away or the occur-

(7

H. R. S. 12]

General and Revenue Secretariat. | Ch File No. 199 of 1914-15

Serial No.

Sence of Vacancies.

16) It may be also provided that a certain proportion (one in 3 or 4) may be by nomination.

17) The file should be considered strictly confidential

16/6/15

Dem 18/6

CS to 18/9

Answer 11/9

3 Letter No. 13.63/104 dated 10.9.15 from the Registrar, Chief Court.

~~Headed certain~~ Submits for the consideration of Govt certain suggestions in the matter of defining the powers of Govt and the Chief Court respectively, in regard to the selection of candidates for the post of Munsiffs.

18) This file deals with Examination. The linked file relates to the maintenance of a list of approved candidates for the posts of Munsiffs.

19) Revised rules in accordance with the First Member's instructions have been prepared & placed in the file.

20) The letter received from the Chief

NOTE—Contn. sheet.

GPB—25,000—2-11-14

(8)

G. R. S. 12]

General and Revenue Secretariat.

CS File No. 199 of 1914-15

Serial No.	
	Cont. Yesterday raises no new point.
	21) The file will be brought up as a supplemental subject on 15/9 before the Council meeting; if approved. Dues 9/9/19 (First Member)
	22) I think the question is ready; but why was this laid by so long I wonder. There was only some mechanical work to do after the direction of 16/6/15? 11/9/15
	CS accepts Dues advice for next meeting Dues 14/9
	Dues 14/9
	16.9.16 Dues 14/9
	14/9

23) I had given the file to the Members for some thought the rules on the again to assure myself that all the instructions had been incorporated therein; but he delayed doing so. Hence the delay Dues 14/9

8. SUBJECT. - (Clause viii of the Schedule.)

Note by the First Member of Council in regard to the holding of a competative examination for the appointment of Munsiffs.

OPINION OF THE COUNCIL.

Br III D-5

Please see me with draft G.O comprising all the points raised in the file :-

The G.O. should be prepared by me with as much care as possible.

After consulting the Law Officers

13/11

Submitted with draft G.O. for approval.

13/11

Sd/)

G. R. S. 12]

General and Revenue Secretariat.

15 File No. 199 of 191 5

Serial No.

A draft-we is put up for consideration. The average no of appointments of Munsifs which fall permanently vacant may be taken at the most not to exceed two a year. It seems inexpedient to select more than 4 at a time for 2 years. Addl appointments may be made out of this list, if candidates are available. Otherwise temporary arrangements for work may be made under the existing practice. Draft yrs. 15/

(First Member)

15/11/15

GPB—25,000—2-11-14

NOTE—Contn. sheet.

(9

F. R. S. 12]

General and Revenue Secretariat.

Cb File No. 199 of 1914-15

Serial No.	
25	Re-circulated to the Members of Council as settled in Council. Dww 9/11/15 18/11
26	I have made some alterations which may be considered. 21/11/15 Dww 23/11
	23/11 Dww 23/11
	26.11.15. Includes fn 1/12 as suppl Dww 27/11

NOTE—Contn. sheet.

GPB—25,000—2-11-14

(19

Extract from the Proceedings of the 369th Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 22nd December 1915

---

4. SUBJECT. - (Clause viii of the Schedule).

Note by the First Member of Council in regard to the holding of a competitive examination for the appointment of Munsiffs.

OPINION OF THE COUNCIL.

27) The draft Government order may be approved.

Sd. M.Visvesvaraya,
Dewan of Mysore.

"EXTRACT"

Secretary to Government,
General Department.

W. D. 1364—GPB—500—14-12-15

J 772

Confidential.

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

---

28) Asstt: Secretary, Branch III, will kindly put up a draft Submission note (himself), to save time.

HT
23/12/15

29) Draft note of Submission is submitted.

29/12

30)

HT
1/1/16

1/1/16

30/1/16

3391
3.1.16.

N.B.—Should routine notes be written on small slips, the notes must be copied or slips pasted on this form.

GPB—50,000—5-8-15.

(12

Submitted to His Highness.

30) With a view to improve the efficiency of the State Judicial service the late First Member of Council (Rajamantrapravina Mr.H.V. Nanjundaya) prepared a* note in regard to the holding of a competitive examination for the appointment of Munsiffs. The Judges of the Chief Court who were consulted in the matter are of opinion that a competitive examination on the lines suggested in the note has some advantages over the existing system, that it may render the task of nomination somewhat easier and that by it allegations of favouritism and jobbery are eliminated. The majority of the District Judges who were consulted are in favour of the proposed system.

*Draft for approval

*Page 9 of office notes.

31) 2. A draft* order based on the note and incorporating some of the suggestions made by the Chief Court has been approved by the Council. Due provision has been made for the appointment of candidates by nomination on special grounds.

32) 3. As the proposed scheme contemplates a novel procedure for recruitment in the Judicial Department, I took the opportunity of consulting the Chief Judge personally again. Sir Leslie Miller is in favour of giving the scheme a trial and he said would be glad to put the candidates through a test.

33) 4. I solicit His Highness' gracious approval to the introduction of the scheme for the present as a tentative measure for about 2 years.

M. Rs vvvvaya

4th Jan 1917

(13

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Proposal regarding the holding of a competitive examination for the appointment of Munsiffs.

No 5781
4.1.17

707.
Returned with Do No. 200
dated 16/17 - 1 - 1917

Order.

34) ~~KRW~~
12/1/17

(14)

Dont 200
With Bonie file

Lemkes
18/1/17

PRIVATE SECRETARY MYSORE

THE PALACE,
BANGALORE.

16th January 1917.
17

My dear Sir,

35) In returning herewith the file of papers relating to the holding of a competitive examination for the appointment of Munsiffs forwarded with your Submission Note No.5981 dated the 4th Instant, I am directed to say that, while approving of the draft Government Order on the file, His Highness would like to suggest that Paragraph 2 of the Order would read better if re-cast as follows:-

The Examination will be restricted to Graduates who fulfil the following conditions.

(1) They must be Graduates in Law who have practised for at least 4 years &c.

(2) They must be natives of Mysore &c.

(3) They must be aged below 30 years &c.

(4) They must be respectable and of good character &c.

36) Addl. before issue: To be submitted to His Highness before issue

Yours sincerely,

R. Lamb

Sir M. Visvesvaraya, K.C.I.E.,
Dewan of Mysore,
Bangalore.

15

G. R. S. 12]

General and Revenue Secretariat.

Cl. File No. 199 of 1914.

Serial No.	
	37) Revised draft with a form of application is submitted for favour of approval.
	38) Secretary
1484/20-1	20/1
	39) Issue Cl. 22/1/17

NOTE—Contn. sheet.

(16

G.R.S. III—31

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Addended
to the first Member
for favour of orders.

40) May the words
"not less than" be
inserted before
"Rs 50" in Subpara
1, para 2 of the
appended order?

U Jayarama Ayyar
23.1.17

41) Yes
23/1

U 24/1/17

42) Issue
U 24/1/17

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16

WD 1233—GPB—60,000—1-12-16—S.

(17)

G. R. S. III-2.

General and Revenue Secretariat | GS File No. 199 of 1914-15

Serial	
4	To The Registrar Ch. Ct. No J 2643 dt 25-1-16. Passes orders on the subject of competitive examination for selection of Munsiffs.

NOTE—Contn. sheet.

GPB—70,000—17-12-15

NOTE—Contn. sheet

No. J 3233
dated 26th Mar 1915

(18)

To

The Registrar, Chief Court
of Mysore.

Cs 199-14-1

Sir,

A suggestion has been made to Government to the effect that the appointments of Munsiffs being not less responsible than those of Assistant Commissioners, the selection of eligible candidates as Munsiffs by means of a competitive Examination would be an improvement upon the present system of nomination.

2. The essential features of the modified system of competition are as follow:-

(a) When a vacancy occurs among Munsiffs or when it can be foreseen that one will occur, an advertisement calling for applications may be inserted in the Gazette, and candidates selected from among the following:-

(1) Graduates in Law who have practised for at least three years or are employed under

(19)

Government in places carrying a salary of Rs.70 or more for a like period;

(2) who are natives of Mysore by birth or domicile;

(3) who are aged below 30 or 35 if they have begun their practice as Advocates or pleaders before 30; and

(4) who are respectable and of good character.

(b) All the selected candidates will be subjected to an examination in

(1) drawing up ~~of~~ judgments on records furnished, and reference books allowed;

(2) recording depositions given in Kannada and English in actual cases (for testing the accuracy of the rendering and speed);

(3) evidence and pleadings;

(4) Rules of Practice (Civil and Criminal) and preparation and examination of cash and other registers of Courts; and

(5) criticism of cases actually decided.

(c) The Chief Court may make nomination of as many as are required

(20

from those who pass by securing a settled minimum, giving reasons when the order of rank has to be disregarded.

3. I am directed to request you to be so good as to place the matter before the Judges of the Chief Court and intimate to me their views regarding it for the information of Government.

4. A very early reply is requested.

24/3/15

I have &c.,

23/3

Offg. Secretary to Govt.

Chief Court
Bangalore
7th April 15

Dear Mr Narasinga Rao

1) According to your Confidential letter No. 3233 d/26th March last I am desired to ascertain if there will be any objection to the Chief Court Confidentially consulting the Subordinate Judges on this question

Yours Sincerely
A. Gopalaiyangar
Registrar

D.O.No. 373 Bangalore,
9th April 1915.

(15)
(23)

My dear Sir,

In reply to your demi-official letter dated the 7th instant in regard to the question of selecting candidates for the post of Munsiffs by means of a competitive examination, I am desired to inform you that there is no objection to the Chief Court consulting the District Judges confidentially, on the question.

Yours sincerely,

9/4

To

N.T.Gopaliengar, Esq., B.A., LL.B.,
Registrar, Chief Court.

1/49 Enc 3.
-/349

CHIEF COURT OF MYSORE,

Bangalore, dated the 22nd May 1915.
24

From

N.T.Gopaliengar, Esq., B.A., LL. B., (24
Registrar of the Chief Court of Mysore.

Cts 199-14-2

To

D.M.Narasinga Rao, Esq., B.A., B.L.,
Offg. Secretary to the Government of Mysore,
General and Revenue Departments.

S i r ,

I am directed to forward the views of the Judges on the suggestion contained in your No: 3233 (confidential) dated the 26th March last.

The Judges have consulted the District Judges and I am to enclose for the information of the Government copies of the opinions received from them.

2. The Judges are not convinced that the suggested examination is more likely to secure the appointment of the most eligible candidate than is the present method of selection among applicants. They doubt whether the result of a single examination in a few technical subjects will afford them more assistance than they now obtain from their knowledge of the candidate - practising at the bar ~~and~~ or employed in the judicial service, and from the enquiries which they are able to make about them, but they redognize that as regards candidates in other departments of the Government service their means of obtaining a sufficient knowledge of the capacity and qualifications of those candidates are not so satisfactory, and that unless the selection is to be confined to Judicial Officers and Practitioners, a competitive examination may render the task of nomination somewhat easier.

3. The method of competition may set this advantage to its credit as well as the advantage that by it allegations of favour-

(25)

favouritism and jobbery are eliminated, but the latter advantage can be fully gained only if the appointments made follow strictly on the results of the examination and if it is not left to the Chief Court or to the Government to make selections among the examinees.

4. The competitive examination proposed has also certain - possible disadvantages for the selection of officers: it may operate to prevent the representation of different communities in the public service, and it may deter some eligible men from applying for appointment . The maximum age fixed for entry into the judicial service as a Munsiff is 35 years and if that maximum is retained there will be a wide range of ages among the candidates for examination. There may be young practitioners or officers of 26 or 27 as well as men of 33 or 34, and some of the elder men may not care to enter into a public competition with men who are their juniors by 7 or 8 years,

age limit 30 if he already

5. The latter objection could be met by reducing the maximum to, say, 30, but that would exclude several men whose names are now on the Judges' list of applicants and who will probably make good officers: such cases could be dealt with by special provisions or it may be said that there are not likely to be many candidates

(2)

candidates who would be deterred by a sentimental objection and consequently that the objection may be neglected.

6. As regards the other objection, which is raised, as you will observe, by the District Judge of Mysore, the Judges do not desire to enter on questions of general policy; but if it is the desire of the Government that different communities should be represented in the service it may be necessary to make special provision in this regard as by providing for an occasional - selection without competition.

7. As regards the details of the scheme suggested they will no doubt require further consideration before it is put into force: at present the Judges only wish to offer a few observations. With reference to paragraph 2 (a) of your letter they do not think it desirable to hold an examination for each vacancy: vacancies arise suddenly at times as by the death or sickness of a Munsiff and great delay would be caused in filling them if an examination were necessary before an appointment could be made. The Judges would prefer to hold an examination periodically say once a year or once every second year, and thereat to select a sufficient number of candidates to meet the estimated requirements of the intervening period.

(27

8. They do not quite follow the suggestion that candidates are to be 'selected' from among those qualified under the proposed rules. If it means that the Chief Court is to be entitled to refuse to allow a qualified candidate to sit for the examination it seems to be not free from objection: if the object is to restrict the number of candidates it would seem better to do this by making qualification more difficult. The process of elimination by selection among qualified candidates would approximate the system to that now in force, with this additional difficulty that grounds would have to be found for refusing to permit a duly qualified candidate to shew what he could do in the examination. Special grounds for refusing admission may no doubt possibly exist, apart from the requirements of respectability and good character, but it would be better to give the Chief Court power 'for special reasons' to refuse admission, than to make the admission a matter of 'selection'. In the course of elimination by selection it might happen that the best candidate was eliminated, and in any case there would be heart-burning, and not unnatural complaint by those who were excluded from shewing their powers to the examiners.

9. Your letter does not state on what general principle selection is to proceed, or why it is deemed necessary to have a

selection

28

selection otherwise than as a result of the examination, and in the absence of information on those points the Judges think it would probably be better to allow all duly qualified candidates to sit for examination.

10. As regards qualifications the Judges think a slight modification might be made in rule (1) which might run -

Graduates in Law (a) who have practised as advocates for at least 3 years or have been employed under the Government in a permanent office for a like period -

(b) who have practised as 1st grade pleaders for at least 5 years, or who have practised as advocates and 1st grade pleader for an aggregate period of not less than 5 years or perhaps 4 years.

4 years

If wants necessary to make as alternative restrict to 5 Pleaders etc

The Judges are inclined to agree with the District Judge of Mysore that it is unnecessary to fix a salary qualification for officers of the Government who are otherwise duly qualified, and they think that while 1st grade pleaders should not be entirely excluded, they should not be admitted on the same terms as advocates. Most practitioners who are graduates in Law are enrolled as advocates but there may be some who are not, or who having practised as pleaders for some years have then been en-

1st Gr Plus - 5 yrs Practice

rolled

(29)

enrolled as advocates, but have not practised in that grade for 3 years. For such cases the Judges would provide in sub rule(b).

11. Proposed rule (3) admits advocates up to 35 and Government officers only up to 30, but it excludes advocates though they may be of three years standing if their practice as advocate has not commenced before 30. It is probably right to exclude those who have not taken to the practice of the law before 30, but practise as a 1st grade pleader before 30 might be allowed to count for the purpose of saving this bar.

12. As regards the subjects of the examination, something depends on the number of candidates. If the number is small it would be sufficient to test them in subjects (1) and (2) or perhaps in subject (1) alone but the difficulty of deciding who is the best man will ordinarily increase with the number of candidates and selection will be easier if the subjects are fairly numerous. The proposed list seems suitable generally, but there may be some difficulty in arranging a satisfactory test in subject (4). There is not outside the offices up to date publication readily available to practitioners, containing the forms of registers and the rules of the civil courts account; even the rules of practice are not at present contained in any

single

single publication that is not out of date and subject (4) may perhaps be omitted until the new civil digest is published. 30

13. The District Judge of Bangalore suggests the omission of subject (5), but does not give reasons; no doubt it may be a difficult subject for unpractised hands, but it might be very useful as a test of knowledge of principles of law; it should not be necessary to confine the examinees to cases 'actually' decided, if that means cases of which the decisions are to be found in the court records or in the books. A good criticism on a decision propounded by the examiners on a hypothetical case would be equally valuable as a test.

I agree

14. To sum up, though the Judges do not anticipate any very marked improvement from the adoption of the method of competition, and though they are not prepared to admit that the Munsiffs selected in the past have not as a rule done credit to their selection, they think that a competitive examination can be devised on the lines suggested which may have some advantages over the present system, provided that the Government is prepared to accept the results of the examination as final and to make appointments accordingly. No doubt it may be necessary to empower the Chief Court to decline for special reasons to nominate

OPINION OF THE DISTRICT JUDGE OF MYSORE.

(32

N O T E

1st Encl to Ch's 199-14-2

The idea of selecting Munsiffs by a competitive Examination in the manner proposed is a novel one, and so far as I know, it does not find a place in the Judicial System of British India, or for the matter of that of any advanced European country where Judicial Systems are as perfect as human ingenuity can devise.

In England and America Judges are selected direct from amongst the members of the Bar. In the continental countries different systems prevail, but the one that prevails in Germany is considered to be more thorough and efficient. In the latter country candidates for employment in the Judicial Service are selected early in life and given a training for a number of years in the practice and profession of Law. Even there the capability of a future Judge is not judged by one or two judgments that a candidate may be called upon to answer in practice and pleadings.

Speaking generally of competitive examinations, they are not such a success as the advocates of these examinations claim them to be. When the Civil Service Scheme was first introduce into Mysore, it was thought that a young man who possesses the necessary culture and intelligence to pass the competitive examination will be a success in any branch of Government Service, But the successive modifications of the scheme show that these hopes have not been realized. It must be within the knowledge of the Government, that some of the Civil Service men have not come up to the expectations formed of them and have been found to be distinctly inferior to some non-civil service men. In British India the success of the Indian Civil Service is due more to the ruling capacity and the imperial instincts of English men rather than to their passing of the Tests prescribed for the

competitive

(33)

competitive examination.

Coming now to the Judicial service, we will have to consider first what are the qualities necessary for a Judge before deciding upon a scheme for the selection of Judges. Some of these qualities which occur to my mind at present are:-

(1). A fair grasp of the principles of Law.

(2). The capacity to apply them to the facts of any particular case.

(3). Appreciation of evidence, and this involves a knowledge of human nature and an acquaintance with the habits, manners and customs of the people and their mode of thought.

(4). Sharpness of intellect to see through the subtle arguments of Lawyers and ready wit to decide difficult points as they arise in the course of pleadings.

(5). A mind open to conviction.

(6). Independence of character.

(7). Patience, industry and suavity of manners.

(8). Thorough honesty and courage to resist temptations.

In my opinion a man who is lacking in any one of these qualities can never be a success as a Judge. The question for consideration is whether the proposed examination can ensure in a candidate the possession of all these qualities. Graduates in Law or persons that have passed the Mysore Local Service Examinations may be expected to have a fair grasp of the principles of the Law and capacity to apply them to the facts of any particular case. For at these examinations, questions are set out only on principles of Law, but candidates are asked to apply them to particular sets of facts. If these examinations are not sufficient to test whether the candidates have a firm grasp of principles, then the

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writing of one or two judgments cannot afford the necessary test.

As regards appreciation of evidence, even the most experienced Judges are liable to err in the conclusions they arrive at. But whether the candidate possesses the necessary qualifications for a right appreciation of evidende (Viz., knowledge of human nature, acquaintance with the habits and manners of the people and their mode of thought) can only be ascertained by experience and close observation of the man rather than from one or two judgments that he may be called upon to write. Similarly the ready wit of a candidate cannot be tested by any oral or written examination. As regards the other qualifications, they relate to the moral side of the man and upon them the success of a Judge chiefly depends. A peevish and impatient Judge or one who cannot keep his mind open to conviction can hardly give satisfaction to the public at large though he may write brilliant judgments on questions of Law and facts, and a Judge who is lacking in independence of character and does not possess sufficient moral stamina to resist temptations is a disgrace to the profession.

Now both the intellectual and moral worth of a candidate can be appraised only by close and constant observation of a candidate for a number of years. The opinion so formed will generally be correct. No element of chance enters in this as in the case of a written or oral examination. Judges only are in a position to form such an opinion. They watch the conduct of a lawyer in a number of cases in which he appears before them. The lawyer too has better scope for displaying his intellectual capacity, legal acumen and moral stamina by appearing before them in a number of cases. If he fails to produce an impression in one case, he may do better in another. It seems to me, therefore, that the opinion of a Judge formed after such close and constant observation is a safer guide for the selection of a candidate than the candidate's success at the competitive examination

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examination. The acquisition by the most successful candidate of a few marks in that examination over and above another can be no test of the superiority of that man over the other, when, as it is stated above, the moral factor plays such an important part in the success of a Judge.

There are practical difficulties also in the way of conducting this examination, but I need not dwell upon them here as they may be surmounted in due course. There is one drawback in the scheme which may be pointed out here. It practically shuts out the poor official classes who cannot be expected to rise to Rs 70/- in the Judicial Department within the age limit laid down under the proposed rules. Another drawback - an important one from the administrative point of view - is that it makes no provision for a due representation of all classes of H.H. the Maharaja's subjects whilst such provision is made under the Civil Service Scheme. It may be said that it is open to the Judges to select a candidate on the score of his being member of any particular community that requires representation. But surely the Judges will be placing the Government in a very awkward position by overlooking the claims of the candidate that stands at the top of the list and recommending a man much below him on the special ground of his nationality. It may be asked how a selection is to be made when applicants for the Munsiff's place are of the same standard and cannot be distinguished the one from the other. Such instances will be quite rare and if any occur, then selection will have to be made according to - seniority.

For the above reasons, I am not in favour of the adoption of the propsed scheme. It is true that under the present system personal considerations may enter in the selection of a candidate. But this ought not to be allowed to interfere with the discretion of Judges, so long as capable and efficient men are appoint as Munsiffs. Particularly, the Head of the Judicial Department

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can be expected to exercise his patronage impartially and to the best advantage of the service.

Sd/ Mir Humza Husein,

M Y S O R E,
25th April 15.

District & Sessions Judge.

' C O P Y '

R. Gopalan

R E G I S T R A R .

(OPINION OF THE DISTRICT JUDGE OF BANGALORE).

(37)

2 Encl to Ch's 199-14-2

D.O.Letter dated 12th April 1915, Bangalore, to the Registrar of the Chief Court of Mysore.

In reply to your confidential D.O. dated 12th instant asking for my opinion on the suggestion to introduce selection by competitive examination for the appointments of Munsiffs in future, I write to say that the suggestion seems to me a good one. I cannot see how the conditions proposed in the note under reply can be improved. To the tests I would add "Framing issues on pleadings given" and I am a little doubtful of (5) criticism of cases actually decided.

I would also suggest that successful candidates should be liable to do a 3 or 6 months term as probationer for training in practical judicial work and office management under a District Judge before being given independent charge of an office or court.

This liability would of course in practice be confined to young advocates or officials with small experience and little or no office training.

My approval of the proposed system of election is subject to the understanding that men already acting Munsiffs or in the grade of Munsiff would not be subject to the system and that their confirmation if their work has been approved should be effected before a permanent appointment, under the new system is made.

Sd/ R.B.Plumer,
District Judge,
Bangalore Division.

'COPY'

A. Sabhanayagam
Registrar.

(OPINION OF THE DISTRICT JUDGE OF SHIMOGA).. 38

D.O.Letter dated 13th April 1915, Camp Chitaldroog to the Registrar of the Chief Court of Mysore. 5 Encl 6 Cls 199-14-2

With reference to your confidential D.O.letter dated 12th instant inviting my opinion as the desirability of holding competitive examinations for the selection of candidates for the post of Munsiffs, I beg to state that the system proposed is an excellent one and would decidedly be an improvement upon the present system of nomination. I would, however, increase the period laid down in para 2(a) (1) of the suggestions to five years and add to para 2 (b) (2) of the same, 'reading manuscript documents in Kannada.'

Sd/ B.S. Krishnaswamiengar,
District Judge,
Shimoga Division.

'C O P Y'

REGISTRAR.

J 772. Cs 199-14 FB

CONFIDENTIAL.

No 1363/104

CHIEF COURT OF MYSORE,

BANGALORE, dated 10th September 1915.

Rec° June 1919 (39)

From

N. T. COPALIENGAR Esquire, B.A., LL.B.,
Registrar of the Chief Court of Mysore.

To

D. M. NARASINGA RAO, Esquire, B.A., B.L.,
Secretary to the Government of Mysore,
General Department.

S i r,

I am directed to submit for the consideration of the Government and the favour of their orders the following observations on the question of the recruitment of Munsiffs.

Section 4(c) of the Civil Courts Regulation places the power to appoint a Munsiff in the hands of the Government but "only upon nomination by the Chief Court".

This enactment leaves the selection of the Munsiff to the Chief Court, and leaves to the Government what is called the right of appointment, but is essentially the right of vetoing a nomination.

If the law is to be obeyed in the spirit as well as in the letter it seems that under this provision the functions of the Government are limited to the determination of the question whether the nominee of the Chief Court is a fit and proper person to be appointed. The selection cannot be vested in both bodies; it would be clearly contrary to the spirit of the enactment that the Government should direct the Chief Court to make a particular nomination, or should

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limit its power of nomination as among duly qualified individuals; and it seems to follow that under the Regulation the function of the Government is not selection but veto. It is not for the Government to say that there are, among qualified candidates for office, men in their opinion more eligible for appointment than the nominee of the Chief Court: provided that nominee is a fit and proper person in the opinion of the Government, the Regulation contemplates his appointment.

The exclusive right of making a nomination is obviously different from the mere right to be consulted before an appointment is made, and the Judges think that its scope is correctly indicated in the preceding paragraphs.

The action of the Government in certain recent cases has, however, led them to believe that the Government do not take this view of the law, and as it is obviously undesirable that the nominating body and the appointing body should not be at one on so fundamental a question as that of their respective powers, they have thought it not improper to consider whether the Regulation should not be amended so as to make it clearer, or as an alternative whether it is not possible to arrive at a satisfactory modus vivendi without alteration of the law.

On the whole they are not disposed to suggest the amendment of the Regulation if that can be avoided. - The object of the section is clear enough: A Munsiff should be a person possessed not only of that theoretical knowledge of law and legal principles which may be acquired in the process of studying for a law degree at o ne of the Universities, but also of some training in the practical ~~hire~~ business of trying cases, and it was evidently the view of the Legislature that the Chief Court was in a specially good position to make the selection of a person so qualified.

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The Judges have no doubt that the Government will agree with them that the Chief Court ought to have a voice in the appointment of Munsiffs; it is clear that a large proportion of these officers must be appointed from among legal practitioners, and the work of legal practitioners is naturally more constantly under the eye of the Chief Court than of the Government. Some provision is therefore desirable to secure to the Chief Court its proper position in the matter, and it is better to maintain the present law if that can be done with satisfaction to the Government than to go through the process of making an amendment which by the time it has passed through the Legislative Council, might not be clearer or more satisfactory than the enactment with it replaces.

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Two steps have recently been taken towards the improvement of the position: the Government have directed Heads of Departments to furnish the Chief Court periodically with lists of eligible candidates in their departments (G.O. No. J. 4159-206/Cts. 71-14-5 dated 4th June 1915) have, it is believed under their consideration the question of instituting a competitive examination for Munsiffs (Correspondence ending with Chief Court Letter No. 5149/349 of 22nd/24th May 1915).

The first of these steps will enable the Chief Court to make a more comprehensive estimate of all eligible candidates, and may in some cases make it easier for the Government to accept a nomination, but will not affect the divergence of view which it is desirable to eliminate.

The second would simplify the matter by practically making the nomination automatic except in special circumstances, but the Judges are not sure that the Government are prepared to restrict the choice of officers to the successful examinees, or that it would be desirable to do so.

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In these circumstances I am directed to submit for the consideration of the Covernment a suggestion which if adopted will it is hoped facilitate the making of Munsiffs' appointments without altering the law - It is this:

Proposal

A list may be prepared periodically of candidates approved by both the Government and the Chief Court: the Chief Court will make its nomination as vacancies occur from this list and the Government will accept that nomination, unless of course something has come to light to shew that the nominee ought not to be appointed at all. The list may contain the names of a certain number of the examinees who come out best in a competitive examination to be arranged for the purpose, but will not necessarily be restricted to candidates who have sat for the examination.

There will be undoubtedly some difficulties in the matter: for instance it will hardly be practicable to tell a given candidate that he need not sit for examination; and yet if he does sit and is not among the first few, it will be difficult to give him an appointment before those who have surpassed him: and a candidate who though successful in the examination has had no previous experience of the practical work of the administration of justice may require a period of preliminary training before his appointment is confirmed. Such difficulties can probably be overcome, and if the Government think the suggestion now made worth adopting, details can be arranged hereafter.

I have the honour to be,

Sir,

Your most obedient servant,

N. Kopalaswamy

REGISTRAR.

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Acknowledged

Dewan's order
"Forthwith keep on file"

Dentist Court
Regina
October 16

My dear Mr Kennedy,

The Dewan Court asked me to write him
as to submit to him a scheme for the work
men's medical service now pending
in the Legislature. It may appear at first
sight that I am not strictly following his
instructions, but in the typed matter
enclosed two pages, which you will see from
Contents that I have included in the typed
who has not typed it does not include
document but not to blame in the matter.

Yours truly
William [illegible]

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RECRUITMENT OF THE MYSORE JUDICIAL SERVICE.

A skeleton Scheme.

Encl to foregoing
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The cadre of the Mysore Judicial Service may be fixed as follows:-

(1)	Judicial Probationers.	4
(2)	Munsiffs.	19
(3)	Subordinate Judges	6
(4)	District Judges.	3

JUDICIAL PROBATIONERS .-

It is better to have in reserve a body of officers duly trained for appointment as Munsiffs as vacancies occur. At present, when a vacancy occurs either an official in the Subordinate service is appointed or one from the Bar is selected. The men selected from the office are not the best men available, because it is those that can't get on at the Bar that generally accept small appointments in the office. As for the appointments from amongst the Members of the Bar, the selection of the best talent is not an easy matter. Several considerations come into play in making a selection. Further, men selected from the Bar are deficient in a knowledge of Revenue Law and practice which is necessary for the decision of land suits and they cannot be expected to possess a knowledge of human character at the early age they are selected for appointment. Special training for the post is necessary as is the case in Germany. They may be given two years' course (1) under the Judges, (2) under the Deputy Commissioners and (3) under the Government Advocate.

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Two to be selected by competition from amongst the practising members of the Bar to be approved of previously by the Judges of the Chief Court and the District Judges - Age limit 30. Standing at the Bar 3 years. - For nomination, the same qualifications.

M U N S I F F S :-

To be recruited only from amongst the Judicial Probationers. At present there are 20 appointments in the cadre. The number may be reduced to 19, the appointment of Deputy Registrar being excluded and being reserved for the subordinate service.

SUBORDINATE JUDGES :-

The present number is 4. The appointments of City Magistrates of Mysore and Bangalore may be included in the cadre. City Magistrates perform at present only Judicial functions and their establishments are under the control of the Chief Court. They may be brought under the regular Judicial cadre and may also be given appeal work. Formerly they ranked with Sub Division Officers (of the same rank as Senior Assistant Commissioners) and now they may be given the pay and status of Subordinate Judges. This will raise the number to 6 and it may be recruited as follows:-

2 from the Munsiffs.

2 from the Revenue Department.

2 from the Bar.

Age limit 40. Standing at the Bar 10 years.

DISTRICT

5 Copies

Proceedings of the Government of
H.H.the Maharaja of Mysore.

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Order No. J2643 | Ch 199-14-4
Dated Bangalore, 25/1/ 1917.

With a view to improve the efficiency of the Judicial Service the following rules are laid down in consultation with the Chief Court in regard to recruitment to the grade of Munsiffs:-

1. A competitive ~~examinative~~ examination for the selection of candidates for appointment as Munsiffs will be held ordinarily once every two years. Particulars as to the number of candidates to be selected, etc., will be notified in the Gazette at least 3 months before the date of the examination.

2. The examination will be restricted to graduates who fulfil the following conditions:-

(i) They must be graduates in law - who have practised for at least 4 years as Advocates or five years as First - Grade Pleaders or as First Grade Pleaders and Advocates, or have been employed under Government for at least five years in posts carrying a salary of not less than Rs.50/- per mensem or who have taken their degree in the first class.

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(ii) They must be natives of Mysore by birth or domicile.

(iii) They must be aged below 30 years, or in the case of practitioners below 35 years, provided they have begun to practise as Advocates (or First Grade Pleaders) below 30 years; and

(iv) They must be respectable and of good character.

N. B.- (A person acquires a domicile in Mysore when he has voluntarily fixed the habitation of himself and his family therein, not for mere special or temporary purpose but with the present intention of making it his permanent - home. A continued residence for five years shall be prima facie evidence of having acquired a domicile.)

3. Candidates who fulfil the above conditions and are desirous of competing shall send in their applications (with necessary certificates, etc.) in the form annexed hereto, to the Registrar, Chief Court, not later than a - date to be fixed for the purpose.

4. The candidates approved by Goverr -ment shall be required to present themselves before a Medical Board appointed by Government at a place and on a date to be notified in the Gazette who will examine them with special - reference to their physical fitness for the Judicial service.

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5. All the candidates passed by the Medical Board will be subjected to an examination in the following subjects:-

(1)Drawing up of judgments on records furnished and reference books - allowed;

(2) Recording depositions given in Kannada and English in actual cases.

(3) Evidence and pleadings.

(4) Rules of practice (Civil and Criminal) and preparation and examination of cash and other registers of Courts;

(5) Criticism of cases actually decided or of decisions propounded by the examiners on hypothetical cases.

6. The candidates will be arranged in order of merit according to the number of total marks obtained, provided that marks obtained in any one or more subjects shall be altogether left out when they are below 25 per cent and no candidate be considered to have passed unless he obtains 50 per cent of the - total number of marks.

Candidates to fill up the number of advertised vacancies will be selected from the list of successful candidates in order of rank.

7. All details connected with the examination will be arranged for by the Chief Court, who are requested to submit for the information of Government,

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a final report as to the results of the examination, the names of the candidates selected for appointment, etc.

8. After these rules come into force, no appointment of a Munsiff shall be made except of a person declared to be successful in a competitive examination held as above, provided that one appointment in every four may be made by nomination on special grounds of a person who is a graduate in law or a Barrister-at Law, the nomination being made by the Chief Court in consultation with Government.

Secretary to Government,
General Department.

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May this be printed? Yes
-"- placed at the disposal of the Press? Yes
-"- Published in the Gazette? Yes
-"- Translated? No
-"- treated as standing order? Yes

4/24/17

KNN.

To The Registrar Ch. Ct.

Application for promotion to appear for the Competitive examination for the selection of Munsiffs to be held on the and the following days at

	Name in full of candidate
	Age and date of birth
	Place of birth
	Place of usual residence
	Name and occupation of father or other guardian
	Place of usual residence of father or guardian
	Race or caste of candidate
	Present position or occupation and address
	Date of passing or dates of passing the B.A and B.A degree examination ~~or Branches of the B.A. degree examination, if any~~
	What other University Examinations the candidate has passed with dates of passing them
	Period for which the candidate has practised as an Advocate or First Grade Pleader, with date of enrolment.
	Period for which the Candidate has been in the employment of Govt. with date of appointment and name.
	Testimonials forwarded by the candidate.

(5)